

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 18-CR-3495 JCH

vs.

DOUGLAS D. SMITH,

Defendant.

**DEFENDANT'S SUPPLEMENT TO PROPOSED VOIR DIRE**

Douglas D. Smith, by and through his counsel of record Assistant Federal Public Defenders Aric Elsenheimer and Amanda Lavin, respectfully supplements his Proposed Voir Dire (Doc # 154) and requests that this Honorable Court *voir dire* jurors by asking the following additional questions:

**Publicity or Prior Knowledge of Case**

1. Mr. Smith is charged with shooting someone who was illegally in his backyard in Espanola on May 5, 2018. This case received

news publicity on most media sources. Some of the news publicity erroneously said that the decedent was shot twice. Does anyone remember hearing or reading anything about this case?

### **Nature of the Case**

2. The government alleges that Mr. Smith shot the decedent with reckless disregard for human life. This case involves an elderly man that shot and killed the Decedent after noticing her on his property. Mr. Smith saw an intruder trying to break into his trailer, fired a warning shot to scare the intruder, and then after he thought the intruder had ran off his property, fired three more shots to scare the person.

### **Guns**

3. Does anyone here own a gun?
4. Why do you own guns?
5. What reasons do people have to own firearms?

### **Accident and mistake**

6. When should someone be held accountable for their mistake?
7. What if it was just an honest mistake?
8. Tell us about the most serious mistake you or someone you know has ever made because you or that person jumped to a snap conclusion.
9. Do you think you make good decisions or have good judgement when you are afraid? Why or why not?
10. What does fear feel like? How do you react to a fearful situation?
11. Tell us about the craziest thing you or someone close to you ever did out of fear.

### **Defendant's Rights and Our System of Criminal Justice**

12. How many of you are willing to require that the government prove beyond a reasonable doubt that Mr. Smith is actually guilty of the offenses charged in this case? If the Government does not

meet that burden, are all of you willing to find Mr. Smith not guilty?

13. Would you be inclined to change your vote if a majority of the other jurors voted “guilty”, and you were in the minority which still had a reasonable doubt? < How would you deal with that situation?
14. Is it better to convict an innocent person whom the evidence shows might be guilty, is uncertain, or acquit someone whom the evidence shows might be guilty?
15. What do you think of our system, which does not require that a defendant prove his innocence?

**Defendant Did Not Testify**

16. Are there reasons that an innocent person would not speak in their defense?

In addition to these proposed questions, counsel for Mr. Smith may respectfully request leave of this Honorable Court to pose other questions directly to the prospective jury panel.

Respectfully submitted,

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